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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,565	07/31/2001	Vishal Bansal	SS3035USNA	4917

23906 7590 08/01/2003

E I DU PONT DE NEMOURS AND COMPANY
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,565

Applicant(s)

BANSAL ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 4,17-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-16 and 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6,7.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-16, 24-33 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over RUDISILL et al. (WO 01/09425 A1).

RUDISILL et al. disclose a three layer composite fabric that particularly comprises an inner layer 14 comprised of very fine polymer fibers. (Page 7, lines 13-14) The reference teaches that the inner layer 14 is a multiple component meltblown web comprised of at least 95% by weight of meltblown fibers having an average effective diameter of less than 10 microns, the multiple component meltblown web comprises 10% to 98% by weight of a first polymer component and 90% to 2% by weight of a second polymer component distinct from the first polymer component. The reference further teaches that the first component comprises at least 85% by weight polyethylene and the second polymer component is a synthetic fiber-forming polymer having a melt temperature greater than 140°C or a glass transition temperature of at least 40°C. (Refer to claim 1) The reference teaches that the second polymer component of the

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multiple component meltblown web of layer 14 comprises one or more fiber forming synthetic polymers having a melt temperature greater than 140°C or a glass transition temperature greater than 40°C. Preferably, the other polymer or polymers are gamma radiation stable polymers that improve the spinning of the polyethylene fiber component, such as polyester, polyamide, polyurethane, or polystyrene polymer. (Page 8, lines 9-35)

It is the Examiner's interpretation that the present invention is claiming a multicomponent meltblown web that comprises meltblown fibers with an average effective diameter of less than 10 microns, the multiple component meltblown fibers are comprised of three polymers, and at least two of the polymers are distinct from each other.

The reference also teaches the use of polyester polymers from the group of poly (ethylene terephthalate), poly (trimethylene terephthalate), poly (butylene terephthalate), and copolymers and terpolymers thereof. (Refer to claims 6-8) Further, on claim 10, the reference teaches bicomponent fibers arranged in a side-by-side arrangement. With regards to claims 15 and 16, it is noted that the polymers taught by the present invention encompass the claimed non-elastomeric polymers.

Although RUDISILL et al. does not explicitly teach the claimed first polymer component is comprised of a first polymer and a second polymer, it is reasonable to presume that said first polymer component is inherent to the multiple component meltblown web of RUDISILL et al. Support for said presumption is found in the use of like materials (i.e. the second polymer component of the multiple component meltblown web of layer 14 comprises one or more fiber forming synthetic polymers, therefore, the reference teaches that one of the polymer components could comprises more than one fiber forming synthetic polymer). The burden is upon Applicant

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to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of having a polymer component comprised of two polymers (or having a meltblown fibers comprised of three polymers, as interpreted by the Examiner) would obviously have been present once the RUDISILL product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

NEWIRK et al. (US 6,417,121 B1) – discloses multicomponent fibers arranged in structured domains and nonwoven fabrics formed of the same having a superior combination of extensibility, tensile properties and abrasion resistance. The reference teaches three component polymer blends that provide improved extensibility as compared to comparable 100% polypropylene fabrics, but also fabric formed of two-component polymer blends. (Column 8, lines 16-23) For example, the multicomponent fibers may include at least one polymer domain comprising a dominant amount of a polypropylene, such as isotactic polypropylene, a small amount of a polymer having low mutual affinity with the dominant polymer, such as polyethylene, and an additional third polymer, which either reduces crystallinity and/or compatibilizes the blend. (Column 10, lines 1-28)

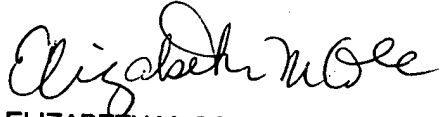
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 8:00-4:00 pm..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

NLT
July 23, 2003


ELIZABETH M. COLE
PRIMARY EXAMINER